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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,065

09/09/2003

Nancy Lucas

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07/27/2007

CARGILL, INC.

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EXAMINER

PASCUA, JES F

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

07/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/657,065	LUCAS ET AL.	
	Examiner	Art Unit	
	Jes F. Pascua	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-17,19-32 and 42-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4-17,19-32 and 42-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/21/2007 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2, 6-15, 19-32, 43-45 are 60-65 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, fails to provide antecedent basis for the first and/or second ends forming "untucked" seams or seals. There is no discussion in the written specification setting forth the metes and bounds of an untucked seam/seal. Furthermore, the direct attachment of the opposing bag body panels to each other and the folding thereof to

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form the flaps, as shown in the drawings, clearly results in one of the opposing bag body panels forming a tucked seam.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A first tear seam has not been defined in claim 29 to warrant the recitation of "a second tear seam" in claim 30.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 5, 42, 51-54 and 59 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 5,338,117 to Kucksdorf et al. See Figs. 22-23.
8. Claims 2, 11-15, 43, 45 and 61 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 3,300,120 to McColgan. See Figs. 4-6.

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9. Claims 19, 27-29, 31, 62 and 63 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 6,340,088 to Mouri et al.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4, 16, 17, 48-50 and 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kucksdorf et al. and U.S. Patent No. 5,593,229 to Warr.

Kucksdorf et al. discloses the claimed device, except for the first end having a tear seam. Warr discloses that it is known in the art to provide a tear seam at a first end of an analogous bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first end of the Kucksdorf et al. bag with the tear seam of Warr, in order to facilitate opening the bag and to form a pour spout for dispensing contents.

Regarding claims 16, 17, 56 and 57, Kucksdorf et al. and Warr disclose the claimed invention, as discussed above, except for a second tear seam at the second end of the bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second tear seam at the second end of Kucksdorf et al., since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

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Regarding claim 4, Kucksdorf et al. and Warr, disclose the claimed device, as discussed above, except for the first handle having a patch and a cut extending through the patch. Warr further discloses that it is known in the art to provide a patch with a cut on the handle of an analogous bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first handle of Kucksdorf et al. with the patch having a cut of Warr, in order to reinforce the handle.

Regarding claims 48 and 50, Kucksdorf et al. and Warr, disclose the claimed device except it is unclear if the Kucksdorf et al. bag contains loose material. In the description of the prior art, Kucksdorf et al. discloses that it is known in the art to provide loose materials "such as pet food, coffee, or similar granular products" within square-bottom bags. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bag of Kucksdorf et al. with the loose materials of the prior art bags, since one of the objects of the Kucksdorf et al. invention is to provide a bag having handle means usable for carrying and/or dispensing contents.

Regarding claims 49, Kucksdorf et al. discloses the claimed invention, as discussed above, except for the contents of the bag being salt. It would have been an obvious matter of design choice to contain salt within the Kucksdorf et al. bag, since applicant has not disclosed that salt within a bag solves any stated problem or is for any particular purpose and it appears that the Kucksdorf et al. invention would perform equally well with salt contained therein.

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12. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kucksdorf et al. and Warr, as applied to claim 5, and in further view of U.S. Patent No. 6,923,574 to Siegel.

Kucksdorf et al. and Warr disclose the claimed device, as discussed above, except for the second handle opening including a rigid, injection-molded plastic handle. Siegel discloses that it is known in the art to attach a rigid, injection-molded plastic handle to an analogous handle opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the second handle opening of Kucksdorf et al. with the rigid, injection-molded plastic handle of Siegel, in order to reinforce the handle opening.

13. Claims 8-10, 19, 21, 24-29, 31, 32, 63 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over McColgan.

McColgan discloses the claimed invention except for the contents of the bag including salt or selected from the group consisting of fertilizer, cement, granular chemicals, pet food and landscaping material. It would have been an obvious matter of design choice to fill the McColgan bag with salt, fertilizer, cement, granular chemicals, pet food or landscaping material, since applicant has not disclosed that such loose materials within a bag solves any stated problem or is for any particular purpose and it appears that the McColgan bag would perform equally well with salt, fertilizer, cement, granular chemicals, pet food or landscaping material contained therein.

14. Claims 30, 44, 60, 62 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over McColgan and Mouri et al.

McColgan discloses the claimed device, as discussed above, except for the first end having a tear seam. Mouri et al. discloses that it is known in the art to provide a tear seam at a first end of an analogous bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first end of the McColgan bag with the tear seam of Mouri et al., in order to facilitate opening the bag and to access the contents of the bag.

Regarding claim 30, McColgan and Warr disclose the claimed invention, as discussed above, except for a second tear seam at the second end of the bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second tear seam at the second end of Kucksdorf et al., since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

15. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over McColgan and U.S. Patent No. 2,878,849 to Lingenfelter et al.

McColgan discloses the claimed device, as discussed above, except for the first handle having a patch (25) and a cut extending through the patch. Lingenfelter et al. discloses that it is known in the art to provide a patch with a cut on the handle of an analogous bag. It would have been obvious to one having ordinary skill in the art at the

time the invention was made to provide the first handle of McColgan with the patch having a cut of Lingenfelter et al., in order to reinforce the handle.

16. Claims 6, 7, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over McColgan and U.S. Patent No. 6,923,574 to Siegel.

McColgan discloses the claimed device, as discussed above, except for the second handle opening including a rigid, injection-molded plastic handle. Siegel discloses that it is known in the art to attach a rigid, injection-molded plastic handle to an analogous handle opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the second handle opening of McColgan with the rigid, injection-molded plastic handle of Siegel, in order to reinforce the handle opening.

Response to Arguments

17. Applicant's arguments filed 05/21/2007 have been fully considered but they are not persuasive.

Applicant remarks that Kucksdorf et al. fails to teach or suggest longitudinally folding over the opposing panels. The Examiner disagrees. Kucksdorf et al. clearly shows that the portions of the flaps (depicted as phantom lines in Figs. 22 and 23) extending beyond seams (54) are folded longitudinally (i.e., along the longitudinal direction of the bag body) and attached to themselves.

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18. Applicant's arguments with respect to claims 2, 4, 8-17, 19-21, 24-32, 43-45, 48-50 and 55-57 have been considered but are moot in view of the new grounds of rejection.

Conclusion

19. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

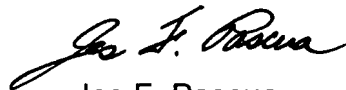
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jes F. Pascua
Primary Examiner
Art Unit 3782

JFP